

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**JOSHUA S HUM**  
Claimant

**APPEAL NO. 10A-UI-12047-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 11/29/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a representative's decision dated February 5, 2010, reference 01, which held claimant not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was held on October 14, 2010. The claimant participated. The employer participated by Gwen Timmerman, Senior Human Resource Clerk.

**ISSUE:**

At issue in this matter is whether the appeal filed herein was timely and whether the claimant voluntarily left his work with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Joshua Hum was mailed a notice of representative's decision on February 5, 2010, reference 01. Although the notice was mailed to the claimant's address of record, Mr. Hum did not receive it. The claimant subsequently filed an appeal when he became aware that a decision effecting his benefits had been made.

Mr. Hum was employed by Tyson Fresh Meats Inc. from August 25, 2008 until February 6, 2009 when he voluntarily quit employment. The claimant worked as a full-time production worker and was paid by the hour. The claimant left employment without advance notice to the employer. Mr. Hum complained on one occasion to his supervisor regarding conduct in the work area that he felt was inappropriate. The claimant did not take any concerns up the chain of command or inform the company's human resource department of his dissatisfactions.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge finds the claimant has established good cause for filing his appeal beyond the ten-day statutory time limit. The claimant did not receive the initial determination

and filed an appeal as soon as he became aware that a decision contrary to his interests had been earlier issued.

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

An individual who voluntarily leaves their employment must first give notice to the employer of reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant did not give the employer a reasonable opportunity to resolve his complaints prior to leaving employment by complaining further if he felt the problems were not resolved and making other management individuals or the company's human resource department aware of the reasons, the separation was without good cause attributable to the employer. Benefits are denied.

#### **DECISION:**

The February 5, 2010, reference 01, decision is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, providing that he meets all other eligibility requirements of Iowa law.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

css/css